

§ 15A-1376. Arrest and hearing on parole violation.

(a) Arrest for Violation of Parole. – A parolee is subject to arrest by a law-enforcement officer or a parole officer for violation of conditions of parole only upon the issuance of an order of temporary or conditional revocation of parole by the Post-Release Supervision and Parole Commission. However, a parole revocation hearing under subsection (e) may be held without first arresting the parolee.

(b) When and Where Preliminary Hearing on Parole Violation Required. – Unless the hearing required by subsection (e) is first held or a continuance is requested by the parolee, a preliminary hearing on parole violation must be held reasonably near the place of the alleged violation or arrest and within seven working days of the arrest of a parolee to determine whether there is probable cause to believe that he violated a condition of parole. The preliminary hearing for violations of parole may be conducted by videoconference. Otherwise, the parolee must be released seven working days after his arrest to continue on parole pending a hearing. If the parolee is not within the State, his preliminary hearing is as prescribed by G.S. 148-65.1A.

(c) Officers to Conduct Hearing. – The preliminary hearing on parole violation must be conducted by a judicial official, or by a hearing officer designated by the Post-Release Supervision and Parole Commission. No person employed by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety may serve as a hearing officer at a hearing provided in this section unless he is a member of the Post-Release Supervision and Parole Commission or is employed solely as a hearing officer.

(d) Procedure for Preliminary Hearing on Parole Violation. – The Division of Adult Correction and Juvenile Justice of the Department of Public Safety must give the parolee notice of the preliminary hearing and its purpose, including a statement of the violations alleged. At the hearing, the parolee may appear and speak in his own behalf, may present relevant information, and may, on request, personally question witnesses and adverse informants, unless the hearing officer finds good cause for not allowing confrontation. If the person holding the hearing determines there is probable cause to believe the parolee violated his parole, he must summarize the reasons for his determination and the evidence he relied on. Formal rules of evidence do not apply at the hearing. If probable cause is found, the parolee may be held in the custody of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety to serve the appropriate term of imprisonment, subject to the outcome of a revocation hearing under subsection (e).

(e) Revocation Hearing. – Before finally revoking parole, the Post-Release Supervision and Parole Commission must, unless the parolee waived the hearing or the time limit, provide a hearing within 45 days of the parolee's reconfinement to determine whether to revoke parole finally. The revocation hearing may be conducted by videoconference. The Post-Release Supervision and Parole Commission must adopt rules governing the hearing. (1977, c. 711, s. 1; 1977, 2nd Sess., c. 1147, ss. 23-26; 1987, c. 827, s. 1; 1993, c. 538, s. 40; 1994, Ex. Sess., c. 24, s. 14(b); 1996, 2nd Ex. Sess., c. 18, s. 20.15(a); 2000-189, s. 2; 2011-145, s. 19.1(h); 2016-77, s. 4(c); 2017-186, s. 2(dddd).)